

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY,

Writ Petition No. 2717 of 1997

1. Sundaregowda
S/o Boraiah
Major
2. Smt. M.B.Sarojamma
W/o S.K.Kariyappa Gowda
Major

Both are residint at No.44
5th Cross, Hanumanthanagar
Bangalore - 560 019

.. PETITIONERS

(By Sri B.N.Dayananda, Advocate)

- Vs -

1. State of Karnataka
Represented by its
Revenue Secretary
Revenue Department
Vidhana Soudha
Bangalore - 560 001
2. The Assistant Commissioner
Bangalore South Sub-Division
Bangalore
3. The Deputy Tahsildar
Nada Kacheri
Uttarahalli Hobli
Bangalore South Taluk
4. Sri Umamahesh
S/o K.S.Thondadharya
Major
No.57/1A, Kathriguppa Village
Banashankari III Stage
Bangalore

.. RESPONDENTS

(By Sri B.E.Kotian, Addl. Government Advocate
for R-1 to R-3 and Sri B.T.Indushekar,
Advocate for R-4)

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to quash vide Annexure-G dt. 28.11.96 and etc.


This petition coming on for orders this day, the Court made the following:

ORDER

Though this petition is posted in orders' list, with the consent of the learned counsel appearing for the parties, it is taken up for final hearing and disposed of by this order.

2. After arguing the matter for a considerable length of time, the learned counsel for the petitioners and the learned counsel for the 4th respondent in the light of the infirmities in the orders passed by the 3rd respondent as well as the 2nd respondent, fairly submitted that the order passed by respondents-2 and 3 may be quashed and the matter may be remitted for fresh consideration to the 3rd respondent.

3. I find the stand taken by the learned counsel appearing for the parties is fair and reasonable.



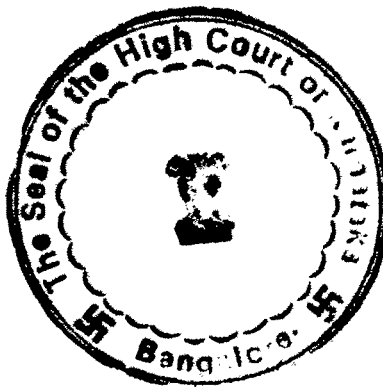
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4. Accordingly, the Order dated 30th March 1995 made in MR.No.18/93-94 passed by the 3rd respondent and also the Order dated 28th November 1996, a copy of which has been produced as Annexure-G passed by the 2nd respondent are hereby quashed. The matter is remitted for fresh consideration to the 3rd respondent. The petitioners and the 4th respondent are directed to appear before the 3rd respondent on 29th July 1998. It is made clear that the parties are not entitled for fresh notice from the 3rd respondent and if the parties fail to appear before the 3rd respondent on the next date of hearing, the 3rd respondent is entitled to proceed ex parte and pass appropriate orders in accordance with law. The 3rd respondent is directed to dispose of the matter within four months from 29th July 1998. All the contention urged by the counsel appearing for the parties on merits are left open to be urged and the parties are entitled to produce evidence which they may deem fit in support of their claim. The 3rd respondent is also directed to conduct fresh enquiry and pass fresh order after hearing the ^{parties in this petition} ~~petitioners~~ and all others who are interested in the land in question.



5. It is submitted by the learned counsel appearing for the parties that the records are before the 2nd respondent. The 2nd respondent is directed to return the records if it is with him within two weeks from the date of receipt of a copy of this order. Communicate this order to the respondents-2 ~~and~~ 3 within a week from today. This petition is accordingly allowed and disposed of in terms stated above.

6. Sri B.E.Kotian, learned Government Advocate is given four weeks' time to file his memo of appearance.



Sd/-
JUDGE

pmg/